

Office of the Secretary of Defense

§ 63.3

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UTAH

Chief, Drivers License Bureau, 317 State Office Building, Salt Lake City, Utah 84114, (801) 965-4411

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Director of Law Administration, Department of Motor Vehicles, 120 State Street, Montpelier, Vermont 05603, (Mail inquiries only)

VIRGINIA

Division of Motor Vehicles, Attn: Driver's Licensing and Information Department, 2300 W. Broad Street, Richmond, Virginia 23269, (804) 257-0410

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Department of Licensing, Driver Services Division, Highway Licensing Building, Olympia, Washington 98504, (206) 753-6976

WEST VIRGINIA

Department of Motor Vehicles, 1800 Washington Street, East, Charleston, West Virginia 25317, (304) 348-0238

WISCONSIN

Driver Record File, Department of Transportation, P.O. Box 7918, Madison, Wisconsin 53707-7918, (608) 266-2360

WYOMING

Criminal Identification Division, Boyd Building, Cheyenne, Wyoming 82002

NDR

National Driver Register, room 5117, NHTSA, 400 7th Street SW, Washington, DC 20509

DISTRICT OF COLUMBIA

District of Columbia Department of Transportation, Bureau of Motor Vehicles Services, 301 C Street NW, Washington, DC 20001

GUAM

Mr. Patrick Wolfe, Deputy Director, Revenue and Taxation, Government of Guam, Agana, Guam 96910

PUERTO RICO

Mr. Jose A. Zayas-Berdecia, Director, Bureau of Motor Vehicles, P.O. Box 41243, Santurce, Puerto Rico 00940

VIRGIN ISLANDS

(Does not participate in the National Driver Register)

PART 63—FORMER SPOUSE PAYMENTS FROM RETIRED PAY

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AUTHORITY: 10 U.S.C. 1408.

SOURCE: 50 FR 2667, Jan. 18, 1985, unless otherwise noted.

§63.1 Purpose.

Under 10 U.S.C. 1408, this part establishes policy and authorizes direct payments to a former spouse of a member from retired pay in response to court-ordered alimony, child support, or division of property.

§63.2 Applicability and scope.

(a) This part applies to the Office of the Secretary of Defense, the Military Departments, the Coast Guard (under agreement with the Department of Transportation), the Public Health Service (PHS) (under agreement with the Department of Health and Human Services); and the National Oceanic and Atmospheric Administration (NOAA) (under agreement with the Department of Commerce). The term "Uniformed Services," as used herein, refers to the Army, Navy, Air Force, Marine Corps, Coast Guard, commissioned corps of the PHS, and the commissioned corps of the NOAA.

(b) This part covers members retired from the active and reserve components of the Uniformed Services who are subject to court orders awarding alimony, child support, or division of property.

§63.3 Definitions.

(a) *Alimony*. Periodic payments for the support and maintenance of a spouse or former spouse in accordance with State law under 42 U.S.C. 662(c). It includes, but is not limited to, spousal support, separate maintenance, and maintenance. Alimony does not include any payment for the division of property.

(b) *Annuitant*. A person receiving a monthly payment under a survivor benefit plan related to retired pay.

(c) *Child support.* Periodic payments for the support and maintenance of a child or children, subject to and in accordance with State law under 42 U.S.C. 662(b). It includes, but is not limited to, payments to provide for health care, education, recreation, and clothing or to meet other specific needs of such a child or children.

(d) *Court.* Any court of competent jurisdiction of any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands and any court of the United States as defined in 28 U.S.C. 451 having competent jurisdiction; or any court of competent jurisdiction of a foreign country with which the United States has an agreement requiring the United States to honor any court order of such country.

(e) *Court Order.* As defined under 10 U.S.C. 1408(a)(2), a final decree of divorce, dissolution, annulment, or legal separation issued by a court, or a court ordered, ratified, or approved property settlement incident to such a decree. It includes a final decree modifying the terms of a previously issued decree of divorce, dissolution, annulment, or legal separation, or a court ordered, ratified, or approved property settlement incident to such previously issued decree. The court order must provide for the payment to a member's former spouse of alimony, child support, or a division of property. In the case of a division of property, the court order must specify that the payment is to be made from the member's disposable retired pay.

(f) *Creditable service.* Service counted towards the establishment of any entitlement for retired pay. See paragraphs 10102 through 10108 of DoD 1340.12-M, 42 U.S.C. 212 for the PHS, and 33 U.S.C. 864 and 10 U.S.C. 6323 for NOAA.

(g) *Designated agent.* A representative of a Uniformed Service who will receive and process court orders under this part.

(h) *Division of property.* Any transfer of property or its value by an individual to his or her former spouse in compliance with any community property settlement, equitable distribution of property, or other distribution of

property between spouses or former spouses.

(i) *Entitlement.* The legal right of a member to receive retired pay.

(j) *Final decree.* As defined under 10 U.S.C. 1408(a)(3), a decree from which no appeal may be taken or from which no appeal has been taken within the time allowed for taking such appeals under the laws applicable to such appeals or a decree from which timely appeal has been taken and such appeal has been finally decided under the laws applicable to such appeals.

(k) *Former spouse.* The former husband or former wife, or the husband or wife, of a member.

(l) *Garnishment.* The legal procedure through which payment is made from an individual's pay that is due or payable to another party in order to satisfy a legal obligation to provide child support, to make alimony payments, or both, under 5 CFR part 581 and 42 U.S.C. 659 or to enforce a division of property other than a division of retired pay as property under 10 U.S.C. 1408(d)(5).

(m) *Member.* A person originally appointed or enlisted in, or conscripted into, a Uniformed Service who has retired from the regular or reserve component of the Uniformed Service concerned.

(n) *Renounced pay.* Retired pay to which a member has an entitlement, but for which receipt of payment has been waived by the member.

(o) *Retired pay.* The gross entitlement due a member based on conditions of the retirement law, pay grade, years of service for basic pay, years of service for percentage multiplier, if applicable, and date of retirement (transfer to the Fleet Reserve or Fleet Marine Corps Reserve); also known as retainer pay.

[50 FR 2667, Jan. 18, 1985, as amended at 52 FR 25215, July 6, 1987]

§ 63.4 Policy.

It is the policy of the Uniformed Services to honor a former spouse's request for direct payment from a given member's retired pay in enforcement of a court order that provides for a alimony, child support, or division of property, when the terms, conditions, and requirements in this part are satisfied.